processing of the agricultural commodities and not the production of them (*Bowie* v. *Gonzalez*, 117 F. 2d 11).

(b) The word ''production'' was added to the definition of ''agriculture'' in order to take care of a special situation—the production of turpentine and gum rosins by a process involving the tapping of living trees. (See S. Rep. No. 230, 71st Cong., second sess. (1930); H.R. Rep. No. 2738, 75th Cong., third sess. p. 29 (1938).) To insure the inclusion of this process within the definition, the word ''production'' was added to section 3(f) in conjunction with the words ''including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended'' (*Bowie* v. *Gonzalez*, 117 F. 2d 11). It is clear, therefore, that ''production'' is not used in section 3(f) in the artificial and special sense in which it is defined in section 3(j). It does not exempt an employee merely because he is engaged in a closely related process or occupation directly essential to the production of agricultural or horticultural commodities. To so construe the term would render unnecessary the remainder of what Congress clearly intended to be a very elaborate and comprehensive definition of ''agriculture.'' The legislative history of this part of the definition was considered by the U.S. Supreme Court in reaching these conclusions in *Farmers Reservoir Co.* v. *McComb*, 337 U.S. 755.

§ 780.118 "Harvesting."

(a) The term ''Harvesting'' as used in section 3(f) includes all operations customarily performed in connection with the removal of the crops by the farmer from their growing position (*Holtville Alfalfa Mills* v. *Wyatt*, 230 F. 2d 398; *NLRB* v. *Olaa Sugar Co.*, 242 F. 2d 714). Examples include the cutting of grain, the picking of fruit, the stripping of bluegrass seed, and the digging up of shrubs and trees grown in a nursery. Employees engaged on a plantation in gathering sugarcane as soon as it has been cut, loading it, and transporting the cane to a concentration point on the farm are engaged in ''Harvesting'' (*Vives* v. *Serralles*, 145 F. 2d 552).

(b) The combining of grain is exempt either as harvesting or as a practice performed on a farm in conjunction with or as an incident to farming operations. (See in this connection *Holtville Alfalfa Mills* v. *Wyatt*, 230 F. 2d 398.) ''Harvesting'' does not extend to operations subsequent to and unconnected with the actual process whereby agricultural or horticultural commodities are severed from their attachment to the soil or otherwise reduced to possession. For example, the processing of sugarcane into raw sugar (*Bowie* v. *Gonzalez*, 117 F. 2d 11, and see *Maneja* v. *Waialua*, 349 U.S. 254), or the vining of peas are not included. For a further discussion on vining employees, see § 780.139. While transportation to a concentration point on the farm may be included, ''harvesting'' never extends to transportation or other operations off the farm. Off-the-farm transportation can only be ''agriculture'' when performed by the farmer as an incident to his farming operations (*Chapman* v. *Durkin*, 214 F. 2d 360 cert. denied 348 U.S. 897; *Fort Mason Fruit Co.* v. *Durkin*, 214 F. 2d 363 cert. denied 348 U.S. 897). For further discussion of this point, see §§ 780.144 through 780.147; §§ 780.152 through 780.157.

Raising of Livestock, Bees, Fur-bearing Animals, or Poultry

§ 780.119 Employment in the specified operations generally.

Employees are employed in the raising of livestock, bees, fur-bearing animals or poultry only if their operations relate to animals of the type named and constitute the ''raising'' of such animals. If these two requirements are met, it makes no difference for what purpose the animals are raised or where the operations are performed. For example, the fact that cattle are raised to obtain serum or virus or that chicks are hatched in a commercial hatchery does not affect the status of the operations under section 3(f).

§ 780.120 Raising of "livestock."

The meaning of the term ''livestock'' as used in section 3(f) is confined to the ordinary use of the word and includes only domestic animals ordinarily raised or used on farms. That Congress did not use this term in its generic

sense is supported by the specific enumeration of activities, such as the raising of fur-bearing animals, which would be included in the generic meaning of the word. The term includes the following animals, among others: Cattle (both dairy and beef cattle), sheep, swine, horses, mules, donkeys, and goats. It does not include such animals as albino and other rats, mice, guinea pigs, and hamsters, which are ordinarily used by laboratories for research purposes (*Mitchell* v. *Maxfield,* 12 WH Cases 792 (S.D. Ohio), 29 Labor Cases 68, 781). Fish are not ''livestock'' (*Dunkly* v. *Erich,* 158 F. 2d 1), but employees employed in propagating or farming of fish may qualify for exemption under section 13(a)(6) or 13(b)(12) of the Act as stated in §780.109 as well as under section 13(a)(5), as explained in part 784 of this chapter.

§ 780.121 What constitutes "raising" of livestock.

The term ''raising'' employed with reference to livestock in section 3(f) includes such operations as the breeding, fattening, feeding, and general care of livestock. Thus, employees exclusively engaged in feeding and fattening livestock in stock pens where the livestock remains for a substantial period of time are engaged in the ''raising'' of livestock. The fact that the livestock is purchased to be fattened and is not bred on the premises does not characterize the fattening as something other than the ''raising'' of livestock. The feeding and care of livestock does not necessarily or under all circumstances constitute the ''raising'' of such livestock, however. It is clear, for example, that animals are not being ''raised'' in the pens of stockyards or the corrals of meat packing plants where they are confined for a period of a few days while en route to slaughter or pending their sale or shipment. Therefore, employees employed in these places in feeding and caring for the constantly changing group of animals cannot reasonably be regarded as ''raising'' livestock (*NLRB* v. *Tovrea Packing Co.,* 111 F. 2d 626, cert. denied 311 U.S. 668; *Walling* v. *Friend,* 156 F. 2d 429). Employees of a cattle raisers' association engaged in the publication of a magazine about cattle, the detection of cattle thefts, the location of stolen cattle, and apprehension of cattle thieves are not employed in raising livestock and are not engaged in agriculture.

§ 780.122 Activities relating to race horses.

Employees engaged in the breeding, raising, and training of horses on farms for racing purposes are considered agricultural employees. Included are such employees as grooms, attendants, exercise boys, and watchmen employed at the breeding or training farm. On the other hand, employees engaged in the racing, training, and care of horses and other activities performed off the farm in connection with commercial racing are not employed in agriculture. For this purpose, a training track at a racetrack is not a farm. Where a farmer is engaged in both the raising and commercial racing of race horses, the activities performed off the farm by his employees as an incident to racing, such as the training and care of the horses, are not practices performed by the farmer in his capacity as a farmer or breeder as an incident to his raising operations. Employees engaged in the feeding, care, and training of horses which have been used in commercial racing and returned to a breeding or training farm for such care pending entry in subsequent races are employed in agriculture.

§ 780.123 Raising of bees.

The term ''raising of * * * bees'' refers to all of those activities customarily performed in connection with the handling and keeping of bees, including the treatment of disease and the raising of queens.

§ 780.124 Raising of fur-bearing animals.

(a) The term ''fur-bearing animals'' has reference to animals which bear fur of marketable value and includes, among other animals, rabbits, silver foxes, minks, squirrels, and muskrats. Animals whose fur lacks marketable value, such as albino and other rats, mice, guinea pigs, and hamsters, are not ''fur-bearing animals'' which within the meaning of section 3(f).

(b) The term ''raising'' of fur-bearing animals includes all those activities